



## ELDER LAW AND ESTATE PLANNING

Joseph Karp

### **Child with disability can be beneficiary of pooled special needs trust**

**Question:** Our daughter's disability means she will not be able to support herself as an adult. She is 17 now. We've been told we should create a special needs trust for her, but there is no one in our family who has the skills or desire to serve as trustee. The bank trust departments we spoke to do not want to administer it because the money we would put in does not meet their minimum requirements. One bank suggested we look into a pooled trust. How is that different from the special needs trust and will it provide similar protections for our daughter?

**Answer:** Both are types of special needs trust. A pooled special needs trust established for a person with a disability is always administered by a non-profit entity. It is like a super-trust, with monies for many beneficiaries pooled in one pot. Each beneficiary has his/her own account, but the monies are pooled for the purposes of management and investment. You and anyone else who desires may put funds into the pooled special needs trust for your daughter's benefit. Just as with an individual special needs trust, monies in a pooled trust may be used only for qualified disability related expenses, and are not considered for the purposes of determining eligibility for Medicaid or SSI.

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There are differences between the two types of trusts with respect to what happens when the beneficiary dies. With an individual special needs trust, remaining monies can pass to other beneficiaries you have named. In contrast, unused funds in a pooled trust must be used to repay the government for the benefits it provided for the beneficiary. In some cases, the non-profit will retain the remaining funds for others in the pool who have run out of available funds.

You can locate pooled trust administrators here: <https://www.specialneedsalliance.org/pooled-trust-directory/#florida>

Good luck.

*Joseph Karp, a member of the Florida and New York Bars, is a Nationally and Florida Bar Certified Elder Law Attorney and founder of The Karp Law Firm, located in Palm Beach and St. Lucie counties. The firm assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration and estate litigation.*